

#### § 180.435

(c) *Oral argument.* The ALJ may order oral argument on any motion.

#### § 180.435 Prehearing statements.

(a) Before the commencement of the hearing, the ALJ may direct the parties to file prehearing statements.

(b) The prehearing statement must state the name of the party presenting the statement and, unless otherwise directed by the ALJ, briefly set forth the following:

(1) The issues involved in the proceeding;

(2) The facts stipulated by the parties and a statement that the parties have made a good faith effort to stipulate to the greatest extent possible;

(3) The facts in dispute;

(4) The witnesses (together with a summary of the testimony expected) and exhibits to be presented at the hearing;

(5) A brief statement of applicable law;

(6) Conclusions to be drawn;

(7) Estimated time required for presentation of the party's case; and

(8) Such other information as may assist in the disposition of the proceeding.

#### § 180.440 Prehearing conferences.

(a) Before the commencement of or during the course of the hearing, the ALJ may direct the parties to participate in a conference to expedite the hearing. Failure to attend a conference may constitute a waiver of all objections to the agreements reached at the conference and to any order with respect thereto.

(b) During the conference, the ALJ may dispose of any procedural matters on which he/she is authorized to rule. At the conference, the following matters may be considered:

(1) Pre-trial motions;

(2) Identification, simplification and clarification of the issues;

(3) Necessary amendments to the pleadings;

(4) Stipulations of fact and of the authenticity, accuracy, and admissibility of documents;

(5) Limitations on the number of witnesses;

(6) Negotiation, compromise, or settlement of issues;

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(7) The exchange of proposed exhibits and witness lists;

(8) Matters of which official notice will be requested;

(9) Scheduling actions discussed at the conference; and

(10) Such other matters as may assist in the disposition of the proceeding.

(c) Conferences may be conducted by telephone or in person, but generally shall be conducted by telephone, unless the ALJ determines that this method is inappropriate. The ALJ shall give reasonable notice of the time, place and manner of the conference.

(d) *Record of conference.* Unless otherwise directed by the ALJ, the conference will not be stenographically recorded. The ALJ will reduce the actions taken at the conference to a written order or, if the conference takes place less than seven days before the beginning of the hearing, may make a statement at the hearing and on the record summarizing the actions taken at the conference.

#### § 180.445 Settlement negotiations before a settlement judge.

(a) *Appointment of settlement judge.* The ALJ, upon the motion of a party or upon his or her own motion, may request the Chief ALJ to appoint another ALJ to conduct settlement negotiations. The order appointing the settlement judge may confine the scope of settlement negotiations to specified issues. The order shall direct the settlement judge to report to the Chief ALJ within specified time periods.

(b) *Duties of settlement judge.* (1) The settlement judge shall convene and preside over conferences and settlement negotiations between the parties and assess the practicalities of a potential settlement.

(2) The settlement judge shall report to the Chief ALJ describing the status of the settlement negotiations, evaluating settlement prospects, and recommending the termination or continuation of the settlement negotiations.

(c) *Termination of settlement negotiations.* Settlement negotiations shall terminate upon the order of the chief ALJ issued after consultation with the settlement judge. The conduct of settlement negotiations shall not unduly